

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ARTHUR L. DAVIS,

Plaintiff,

No. CV 07-6319-MO

JUDGMENT

v.

COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION,

Defendant.

MOSMAN, J.,

Based on the record,

IT IS ORDERED AND ADJUDGED that the Commissioner's decision is REVERSED, and this case is REMANDED for the ALJ to determine the degree to which Dr. Rughani's opinion, which should be examined under the treating physician specialist standard, requires any additional limitations in the Residual Functional Capacity or, in the alternative, a finding of disability. It was ERROR for the ALJ to partially discredit plaintiff because of his inability to quit smoking and because the extent of his symptoms are not supported by the medical evidence.

DATED this 7th day of November, 2008.

/s/ Michael W. Mosman

MICHAEL W. MOSMAN
United States District Judge